

107TH CONGRESS
2D SESSION

S. 2530

AN ACT

To amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. LAW ENFORCEMENT POWERS OF INSPECTOR**
 2 **GENERAL AGENTS.**

3 (a) IN GENERAL.—Section 6 of the Inspector General
 4 Act of 1978 (5 U.S.C. App.) is amended by adding at the
 5 end the following:

6 “(e)(1) In addition to the authority otherwise pro-
 7 vided by this Act, each Inspector General appointed under
 8 section 3, any Assistant Inspector General for Investiga-
 9 tions under such an Inspector General, and any special
 10 agent supervised by such an Assistant Inspector General
 11 may be authorized by the Attorney General to—

12 “(A) carry a firearm while engaged in official
 13 duties as authorized under this Act or other statute,
 14 or as expressly authorized by the Attorney General;

15 “(B) make an arrest without a warrant while
 16 engaged in official duties as authorized under this
 17 Act or other statute, or as expressly authorized by
 18 the Attorney General, for any offense against the
 19 United States committed in the presence of such In-
 20 spector General, Assistant Inspector General, or
 21 agent, or for any felony cognizable under the laws
 22 of the United States if such Inspector General, As-
 23 sistant Inspector General, or agent has reasonable
 24 grounds to believe that the person to be arrested has
 25 committed or is committing such felony; and

1 “(C) seek and execute warrants for arrest,
2 search of a premises, or seizure of evidence issued
3 under the authority of the United States upon prob-
4 able cause to believe that a violation has been com-
5 mitted.

6 “(2) The Attorney General may authorize exercise of
7 the powers under this subsection only upon an initial de-
8 termination that—

9 “(A) the affected Office of Inspector General is
10 significantly hampered in the performance of respon-
11 sibilities established by this Act as a result of the
12 lack of such powers;

13 “(B) available assistance from other law en-
14 forcement agencies is insufficient to meet the need
15 for such powers; and

16 “(C) adequate internal safeguards and manage-
17 ment procedures exist to ensure proper exercise of
18 such powers.

19 “(3) The Inspector General offices of the Department
20 of Commerce, Department of Education, Department of
21 Energy, Department of Health and Human Services, De-
22 partment of Housing and Urban Development, Depart-
23 ment of the Interior, Department of Justice, Department
24 of Labor, Department of State, Department of Transpor-
25 tation, Department of the Treasury, Department of Vet-

1 erans Affairs, Agency for International Development, En-
 2 vironmental Protection Agency, Federal Deposit Insur-
 3 ance Corporation, Federal Emergency Management Agen-
 4 cy, General Services Administration, National Aeronautics
 5 and Space Administration, Nuclear Regulatory Commis-
 6 sion, Office of Personnel Management, Railroad Retire-
 7 ment Board, Small Business Administration, Social Secu-
 8 rity Administration, and the Tennessee Valley Authority
 9 are exempt from the requirement of paragraph (2) of an
 10 initial determination of eligibility by the Attorney General.

11 “(4) The Attorney General shall promulgate, and re-
 12 vise as appropriate, guidelines which shall govern the exer-
 13 cise of the law enforcement powers established under para-
 14 graph (1).

15 “(5)(A) Powers authorized for an Office of Inspector
 16 General under paragraph (1) may be rescinded or sus-
 17 pended upon a determination by the Attorney General that
 18 any of the requirements under paragraph (2) is no longer
 19 satisfied or that the exercise of authorized powers by that
 20 Office of Inspector General has not complied with the
 21 guidelines promulgated by the Attorney General under
 22 paragraph (4).

23 “(B) Powers authorized to be exercised by any indi-
 24 vidual under paragraph (1) may be rescinded or suspended
 25 with respect to that individual upon a determination by

1 the Attorney General that such individual has not com-
2 plied with guidelines promulgated by the Attorney General
3 under paragraph (4).

4 “(6) A determination by the Attorney General under
5 paragraph (2) or (5) shall not be reviewable in or by any
6 court.

7 “(7) To ensure the proper exercise of the law enforce-
8 ment powers authorized by this subsection, the Offices of
9 Inspector General described under paragraph (3) shall,
10 not later than 180 days after the date of enactment of
11 this subsection, collectively enter into a memorandum of
12 understanding to establish an external review process for
13 ensuring that adequate internal safeguards and manage-
14 ment procedures continue to exist within each Office and
15 within any Office that later receives an authorization
16 under paragraph (2). The review process shall be estab-
17 lished in consultation with the Attorney General, who shall
18 be provided with a copy of the memorandum of under-
19 standing that establishes the review process. Under the
20 review process, the exercise of the law enforcement powers
21 by each Office of Inspector General shall be reviewed peri-
22 odically by another Office of Inspector General or by a
23 committee of Inspectors General. The results of each re-
24 view shall be communicated in writing to the applicable
25 Inspector General and to the Attorney General.

1 “(8) No provision of this subsection shall limit the
 2 exercise of law enforcement powers established under any
 3 other statutory authority, including United States Mar-
 4 shals Service special deputation.”.

5 (b) PROMULGATION OF INITIAL GUIDELINES.—

6 (1) DEFINITION.—In this subsection, the term
 7 “memoranda of understanding” means the agree-
 8 ments between the Department of Justice and the
 9 Inspector General offices described under section
 10 6(e)(3) of the Inspector General Act of 1978 (5
 11 U.S.C. App) (as added by subsection (a) of this sec-
 12 tion) that—

13 (A) are in effect on the date of enactment
 14 of this Act; and

15 (B) authorize such offices to exercise au-
 16 thority that is the same or similar to the au-
 17 thority under section 6(e)(1) of such Act.

18 (2) IN GENERAL.—Not later than 180 days
 19 after the date of enactment of this Act, the Attorney
 20 General shall promulgate guidelines under section
 21 6(e)(4) of the Inspector General Act of 1978 (5
 22 U.S.C. App) (as added by subsection (a) of this sec-
 23 tion) applicable to the Inspector General offices de-
 24 scribed under section 6(e)(3) of that Act.

1 (3) MINIMUM REQUIREMENTS.—The guidelines
 2 promulgated under this subsection shall include, at
 3 a minimum, the operational and training require-
 4 ments in the memoranda of understanding.

5 (4) NO LAPSE OF AUTHORITY.—The memo-
 6 randa of understanding in effect on the date of en-
 7 actment of this Act shall remain in effect until the
 8 guidelines promulgated under this subsection take
 9 effect.

10 (c) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Subsection (a) shall take ef-
 12 fect 180 days after the date of enactment of this
 13 Act.

14 (2) INITIAL GUIDELINES.—Subsection (b) shall
 15 take effect on the date of enactment of this Act.

Passed the Senate October 17, 2002.

Attest:

Secretary.

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